

CHAPTER 26 CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

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2600	GENERAL PROVISIONS
2600.1	Contracts for construction shall be awarded in accordance with the provisions of this chapter and other applicable provisions of this title.
2600.2	Contracts for architect-engineer services shall be awarded in accordance with title IX of the Federal Property and Administrative Services Act of 1949, approved October

27, 1972 (86 Stat. 1278; 40 U.S.C. 541-544) and the provisions of §§2620 through 2633 of this chapter.

- 2600.3 In any instance where the provisions of this chapter are inconsistent with any other provision of this title, the applicable provisions of this chapter shall take precedence and control the process for the award of a construction or architect-engineer contract.

AUTHORITY: Unless otherwise noted, the authority for this chapter is the District of Columbia Procurement Practices Act of 1985, D.C. Law 6-85, as amended, D.C. Code §1-1181.1 *et seq.* (1981).

SOURCE: Final Rulemaking published at 35 DCR 1579 (February 26, 1988).

2601 SPECIFICATIONS

- 2601.1 In addition to the requirements of this section, construction specifications shall conform to the requirements of chapter 25 of this title.

- 2601.2 Where applicable, contracting officers shall ensure that references in specifications conform to widely recognized standards for specifications promulgated by governments, industries, and technical societies.

- 2601.3 When "brand name or equal" descriptions are necessary, specifications shall clearly identify and describe the particular physical, functional, or other characteristics of the brand name items that are considered essential to satisfying the requirement.

SOURCE: Final Rulemaking published at 35 DCR 1579 (February 26, 1988).

2602 ESTIMATE OF CONSTRUCTION COSTS

- 2602.1 An estimate of construction costs shall be prepared for each proposed contract and for each proposed contract modification estimated to exceed ten thousand dollars (\$10,000).

- 2602.2 The estimate shall be prepared by the agency requesting the proposed contract or contract modification, or by a contractor or District employee under the direction of the contracting officer at the request of that agency.

- 2602.3 The agency estimate, or request for an estimate, shall be forwarded to the contracting officer with the request for preparation of the contract solicitation.

- 2602.4 Each estimate shall be prepared in detail, as though the District were competing for the contract.

- 2602.5 If two-step sealed bidding is used, the estimate shall be prepared after step one is completed, in accordance with chapter 15 of this title.

- 2602.6 Access to information concerning the District estimate shall be limited to District personnel or agents of the District whose official duties require knowledge of the estimate.

- 2602.7 The overall amount of the District estimate shall not be disclosed, except as otherwise permitted by this title.

SOURCE: Final Rulemaking published at 35 DCR 1579 (February 26, 1988).

2603 NOTICE OF THE SCOPE OF CONSTRUCTION PROJECTS

- 2603.1 Any pre-solicitation notices and each solicitation shall state the approximate scope of the construction requirement in terms of physical characteristics and estimated price range.
- 2603.2 In no event shall the notice of the scope of a project disclose the District's estimate of costs.
- 2603.3 Unless narrower price ranges are specified by the contracting officer, the estimated price shall be described in terms of one (1) of the following price ranges:
- (a) Less than \$10,000;
 - (b) Between \$10,000 and \$100,000;
 - (c) Between \$100,000 and \$250,000;
 - (d) Between \$250,000 and \$500,000;
 - (e) Between \$500,000 and \$1,000,000;
 - (f) Between \$1,000,000 and \$5,000,000;
 - (g) Between \$5,000,000 and \$10,000,000; or
 - (h) More than \$10,000,000, in increments of \$5,000,000 or more, as deemed appropriate by the contracting officer.

SOURCE: Final Rulemaking published at 35 DCR 1580 (February 26, 1988).

2604 LIQUIDATED DAMAGES IN CONSTRUCTION CONTRACTS

- 2604.1 In accordance with §507(a) of the Act (D.C. Code, §1-1185.7), in all construction contracts estimated to exceed fifty thousand dollars (\$50,000), the contracting officer shall include a liquidated damages clause approved by the Director.
- 2604.2 In addition to the provisions of §2303 of this title, the provisions of this section shall apply to all liquidated damages clauses included in construction contracts.
- 2604.3 When liquidated damages clauses are required or used, if different completion periods for separate parts or stages of the work are specified in the contract, the contracting officer shall include a provision, approved by the Director, providing for liquidated damages for delay of or failure to perform each separate part or stage of the work compensating the District for damages incurred.
- 2604.4 The contracting officer shall base the minimum amount of liquidated damages on the estimated cost of inspection and superintendence for each day of delay in completion.

2604.5 Whenever the District would suffer other specific losses due to failure of the contractor to complete the work on time, the contracting officer shall also include in the contract the amount of these specific losses.

2604.6 If liquidated damages are used in a contract, the contracting officer shall include an appropriate, reasonable rate or rates of liquidated damages.

SOURCE: Final Rulemaking published at 35 DCR 1581 (February 26, 1988).

2605 PRICING CONSTRUCTION CONTRACTS

2605.1 Unless otherwise authorized under this chapter, a contracting officer shall use firm-fixed-price contracts to procure construction.

2605.2 A contract may be priced on a lump-sum basis (when a lump sum is paid for the total work or defined parts of the work), on a unit-price basis (when a unit price is paid for a specified quantity of work units), or a combination of both methods.

2605.3 The contracting officer shall use lump-sum pricing in preference to unit pricing except when any one (1) of the following circumstances exist:

- (a) Large quantities of work (such as excavation, grading, paving, building outside utilities, or site preparation) are involved which cannot be estimated with sufficient confidence to permit a lump-sum offer without a substantial contingency;
- (b) Estimated quantities of work required may change significantly during construction; or
- (c) Bidders would have to expend unusual effort to develop adequate estimates.

2605.4 If an economic price adjustment provision is customary in contracts for the type of work being procured, or when omission of an adjustment provision would preclude a significant number of firms from submitting bids or would result in bidders including unwarranted contingencies in proposed prices, fixed-price contracts with economic price adjustments may be used in accordance with the applicable provisions of chapters 15 and 24 of this title.

SOURCE: Final Rulemaking published at 35 DCR 1581 (February 26, 1988).

2606 CONCURRENT PERFORMANCE OF CONSTRUCTION CONTRACTS

2606.1 Because of potential labor and administrative problems, cost-plus-fixed-fee, price-incentive, or other types of contracts with cost variation or cost adjustment features shall not be permitted concurrently at the same work site with firm-fixed-price, lump-sum, or unit-price contracts without the prior written approval of the Director.

SOURCE: Final Rulemaking published at 35 DCR 1582 (February 26, 1988).

2607 CONSTRUCTION CONTRACTS WITH ARCHITECT-ENGINEERING FIRMS

2607.1 Except as provided in §2607.2, a contracting officer shall not award a contract for the construction of a project to the firm that designed the project or its subsidiaries or affiliates without the prior written approval of the Director.

- 2607.2 If a proposed construction contract will use a design build or turnkey method of construction, the contracting officer may award the construction contract to an affiliate of the architect-engineer firm that designed the project without prior approval by the Director.

SOURCE: Final Rulemaking published at 35 DCR 1582 (February 26, 1988).

2608 INSPECTION AND SITE EXAMINATION OF DATA

- 2608.1 The contracting officer shall make appropriate arrangements for prospective bidders to inspect the work site and to have the opportunity to examine data available to the District which may provide information concerning the performance of the work, such as boring samples, original boring logs, and records and plans of previous construction. The data should be assembled in a single place and made available for examination.
- 2608.2 The solicitation shall notify bidders of the time and place for the site inspection and data examination.
- 2608.3 If it is not feasible for bidders to inspect the site or examine the data on their own, the solicitation shall designate an individual who will show the site or data to the bidders.
- 2608.4 The contracting officer shall make available to all bidders in the same manner significant site information and the work performance data, including information regarding any utilities to be furnished during construction.
- 2608.5 The contracting officer shall keep a record of the identity and affiliation of each bidder's representative who inspects the site or examines the data.

SOURCE: Final Rulemaking published at 35 DCR 1583 (February 26, 1988).

2609 DISTRIBUTION OF PRE-SOLICITATION NOTICES

- 2609.1 The contracting officer may distribute pre-solicitation notices in a manner designed to reach as many prospective bidders as practicable.
- 2609.2 The contracting officer may send pre-solicitation notices to organizations that maintain, without charge to the public, display rooms for the benefit of prospective bidders, subcontractors, and material suppliers.

SOURCE: Final Rulemaking published at 35 DCR 1583 (February 26, 1988).

2610 INVITATIONS FOR BIDS

- 2610.1 An invitation for bids ("IFB") for construction shall allow a reasonable time for bidders to prepare and submit their bids, but in no event less than thirty (30) days. Each IFB shall be publicized in accordance with the provisions of the Act and chapter 13 of this title.
- 2610.2 In determining what is a reasonable time, the contracting officer shall consider the construction season and the time necessary for bidders to inspect the site, obtain

subcontract bids, examine data concerning the work, and prepare estimates based on plans and specifications.

2610.3 The contracting officer shall ensure that each IFB includes the following information, when applicable:

- (a) The appropriate wage determination as issued by the U.S. Department of Labor; or, if the IFB must be issued before the wage determination is received, a notice that the schedule for minimum wage rates to be paid under the contract will be issued as an amendment to the IFB;
- (b) The scope of the proposed construction project;
- (c) The period of performance;
- (d) Arrangements for bidders to inspect the site and examine the data concerning performance of the work;
- (e) Information concerning any facilities, such as utilities, office space, and warehouse space, to be furnished during the construction period;
- (f) Any special qualifications or experience requirements that will be considered;
- (g) Any special instructions concerning bids, alternate bids, and award;
- (h) Any instructions concerning reporting requirements; and
- (i) Any other clauses required by the Act or this title.

2610.4 The contracting officer shall provide notice of the IFB in accordance with chapter 13 of this title.

2610.5 The contracting officer shall send IFB's to prospective bidders who request them.

SOURCE: Final Rulemaking published at 35 DCR 1583 (February 26, 1988).

2611 NOTICE OF INTENT TO AWARD

2611.1 Each notice of intent to award shall include the following:

- (a) The identity of the IFB;
- (b) The prospective contractor's bid;
- (c) The award price;
- (d) A statement notifying the prospective contractor that all required performance and payment bonds must be properly executed by the prospective contractor and sureties and returned to the contracting officer by the prospective contractor within the time period specified in the IFB, or, if no time period is specified in the IFB, within ten (10) days after the bond forms are presented by the District to the prospective contractor for signature;

- (e) A statement notifying the prospective contractor that the required contract form must be properly executed by the prospective contractor and returned to the contracting officer by the prospective contractor within the time period specified in the IFB, or, if no time period is specified in the IFB, within ten (10) days after the District government contract form is presented by the District to the prospective contractor for signature; and
- (f) A statement that a notice to proceed will be issued, contingent upon the contracting officer's receipt of executed performance and payment bonds and executed contract form that is in compliance with the requirements of the IFB and this title.

2611.2 The District may, without any liability upon the District, rescind the notice of intent to award at any time prior to approval of a formal written contract signed by the prospective contractor and the contracting officer.

SOURCE: Final Rulemaking published at 35 DCR 1584 (February 26, 1988).

2612 EVALUATION OF CONTRACTOR PERFORMANCE

2612.1 The contract administrator shall evaluate contractor performance and prepare a performance report for each construction contract of ten thousand dollars (\$10,000) or more in the following circumstances:

- (a) When any element of performance was either unsatisfactory or outstanding;
- (b) When the contract was terminated for default; or
- (c) When the contract was terminated for the convenience of the District.

2612.2 The contract administrator shall prepare the evaluation performance report at the time of final acceptance of the work, at the time of contract termination, or at other times determined appropriate by the contracting officer.

2612.3 If the contract administrator concludes that a contractor's overall performance was unsatisfactory, the contracting officer shall advise the contractor in writing that a report of unsatisfactory performance is being prepared and shall state the basis for the report.

2612.4 If, after receiving the contract administrator's report, the contractor submits any written comments, the contract administrator shall include them in the report, consider them in resolving any alleged factual discrepancies, and make any appropriate changes in the report. The contracting officer shall include the performance report in the contract file.

2612.5 Before making a determination of responsibility in accordance with chapter 22 of this title, the contracting officer may consider performance reports from any agency or other entity of the District.

SOURCE: Final Rulemaking published at 35 DCR 1585 (February 26, 1988).

2613 PRE-CONSTRUCTION CONFERENCE

- 2613.1 The contracting officer may conduct a pre-construction conference to inform the contractor about the labor standards provisions of the contract and other pre-construction matters deemed appropriate by the contracting officer.

SOURCE: Final Rulemaking published at 35 DCR 1586 (February 26, 1988).

§§2614-2619: RESERVED**2620 ARCHITECT-ENGINEER SERVICES**

- 2620.1 The contracting officer shall publicize all requirements for architect-engineer services in accordance with chapter 13 of this title, and negotiate contracts for these services based on the demonstrated competence and qualifications of prospective contractors to perform the services required at fair and reasonable prices.
- 2620.2 If the District accepts funding assistance for a project from a federal or other source, and a condition of assistance is that a nonprice competitive procedure for selection of architect-engineers which is in compliance with Public Law 6-85, §304(g), but that differs from the procedures specified in this section, a modified architect-engineer selection procedure, approved by the Director, may be used which is in compliance with both the Act and the assistance agreement.
- 2620.3 The contracting officer shall select a contractor for architect-engineer services in accordance with the provisions of this section rather than the solicitation or source selection procedures specified elsewhere in this title.
- 2620.4 Compliance with the provisions of §§2620 through 2633 of this chapter shall constitute a competitive procedure for the procurement of architect-engineer services.
- 2620.5 The contracting officer shall evaluate each potential contractor based on the following criteria:
- (a) Professional qualifications necessary for satisfactory performance of the required services;
 - (b) Specialized experience and technical competence in the type of work required;
 - (c) Capacity to accomplish the work in the required time;

- (d) Past performance on contracts with the District, other governmental entities, and private industry in terms of cost control, quality of work, and compliance with performance schedules; and
 - (e) Acceptability under other appropriate evaluation criteria.
- 2620.6 When the use of design competition is approved by the head of the using agency, the contracting officer may evaluate firms on the basis of their conceptual design of the project.
- 2620.7 Design competition may be used in the following circumstances:
 - (a) When unique situations exist involving prestigious projects, such as the design of memorials or structures of unusual national or local significance;
 - (b) When sufficient time is available for the production and evaluation of conceptual designs; and
 - (c) When the design competition, with its costs, will substantially benefit the project.

SOURCE: Final Rulemaking published at 35 DCR 1586 (February 26, 1988).

2621 ARCHITECT-ENGINEER EVALUATION BOARD

- 2621.1 When procuring architect-engineer services, the head of the contracting agency shall appoint one (1) or more permanent or ad hoc architect-engineer evaluation boards composed of members who, collectively, have experience in architecture, engineering, construction, and District and related procurement matters.
- 2621.2 Members of evaluation boards shall include highly qualified professional employees of the District and may include private practitioners of architecture, engineering, or related professions. The head of the contracting agency shall designate one (1) District employee member of each board as the chairperson.
- 2621.3 No firm shall be eligible for award of an architect-engineer contract during the period in which any of its principals or associates are participating as members of the awarding evaluation board.

SOURCE: Final Rulemaking published at 35 DCR 1588 (February 26, 1988).

2622 ARCHITECT-ENGINEER EVALUATION BOARD FUNCTIONS

- 2622.1 The evaluation board established pursuant to §2621 shall perform the following functions under the general direction of the contracting officer:
 - (a) Review the current data files on eligible firms and responses to notice of the particular project;
 - (b) Evaluate the firms in accordance with the prescribed criteria in §2620;
 - (c) Hold discussions with at least three (3) of the most highly qualified firms about concepts and the relative utility of alternative methods of furnishing

the required services (but not concerning architect-engineer fees) when the prospective architect-engineer contract is estimated to exceed ten thousand dollars (\$10,000); and

- (d) Prepare a selection report for the contracting officer recommending, in order of preference, at least three (3) firms that are evaluated to be the most highly qualified to perform the required services.

2622.2 The selection report shall include a description of the discussions and evaluation conducted by the board to allow the contracting officer to review the considerations upon which the recommendations are based.

SOURCE: Final Rulemaking published at 35 DCR 1588 (February 26, 1988).

2623 ARCHITECT-ENGINEER SELECTION

2623.1 The contracting officer shall review the recommendations of the evaluation board and shall, with the advice of appropriate technical and staff representatives, make the final selection.

2623.2 The final selection shall be a listing, in order of preference, of the firms considered most highly qualified to perform the work.

2623.3 If the firm listed as the most preferred is not recommended as the most highly qualified by the evaluation board, the contracting officer shall include in the contract file a written explanation of the reason for the selection. All firms on the final selection list shall be considered "selected firms" with which the contracting officer may negotiate.

2623.4 The contracting officer shall not add firms to the selection report. If the firms recommended in the report are not deemed to be qualified or the report is considered inadequate for any reason, the contracting officer shall record the reasons and return the report through channels to the evaluation board for appropriate revision.

2623.5 The contracting officer shall promptly inform the evaluation board of the final selection.

SOURCE: Final Rulemaking published at 35 DCR 1589 (February 26, 1988).

2624 ARCHITECT-ENGINEER SELECTION PROCESS FOR SMALL PURCHASES

2624.1 When authorized by the contracting officer, the short process set forth in this section may be used as an alternative to the processes set forth in §§2622 and 2623 to select firms for contracts not estimated to exceed ten thousand dollars (\$10,000).

2624.2 When the contracting officer decides that formal action by the board is not necessary in connection with a particular selection, the following procedures shall be used:

- (a) The chairperson of the board shall perform the functions of the board in accordance with §2622;

- (b) The contracting officer shall review the report and approve it or return it to the chairperson for appropriate revision; and
- (c) Upon receipt of an approved report, the chairperson of the board shall furnish the contracting officer a copy of the report which will serve as an authorization for the contracting officer to commence negotiations.

SOURCE: Final Rulemaking published at 35 DCR 1589 (February 26, 1988).

2625 ARCHITECT-ENGINEER QUALIFICATIONS

- 2625.1 Each agency with construction contract authority shall receive and maintain data on firms that request to be considered for District architect-engineer contracts.
- 2625.2 To be considered for an architect-engineer contract, a firm shall file an appropriate architect-engineer qualification data form with the agency soliciting the services.
- 2625.3 The office maintaining the architect-engineer qualification data files shall classify each firm with respect to the following:
 - (a) Location;
 - (b) Specialized experience;
 - (c) Professional capabilities; and
 - (d) Capacity, with respect to the scope of work that the firm can undertake.
- 2625.4 The office maintaining qualifications data files shall review and update each file at least once each year. The process shall include the following:
 - (a) Encouraging firms to submit annually an updated statement of qualifications and performance report;
 - (b) Reviewing and updating each firm's classification;
 - (c) Recording any contract awards made to each firm in the preceding year;
 - (d) Ensuring that the file contains a copy of each pertinent performance evaluation report;
 - (e) If it is no longer pertinent, discarding any material that has not been updated within the previous three (3) years; and
 - (f) Posting the date of the review in the file.
- 2625.5 Evaluation boards and other appropriate District employees or agents shall have access to data files.

SOURCE: Final Rulemaking published at 35 DCR 1590 (February 26, 1988).

2626 COST ESTIMATE FOR ARCHITECT-ENGINEER CONTRACTS

- 2626.1 An independent District estimate of the cost of architect-engineer services shall be prepared by or under the direction of the contracting officer before commencing negotiations in accordance with §2627 for each proposed contract or contract modification estimated to exceed ten thousand dollars (\$10,000).
- 2626.2 The estimate shall be prepared by the agency requesting the services, or under the direction of the contracting officer at the request of that agency.
- 2626.3 The agency estimate, or request for an estimate, shall be forwarded to the contracting officer with the request for the services.
- 2626.4 Access to information concerning the District estimate shall be limited to District personnel and agents whose official duties require knowledge of the estimate. The overall amount of the District's estimate shall not be disclosed except as permitted by this title.
- 2626.5 The contracting officer may make an exception to §2626.4 during contract negotiations to allow the contracting officer to identify a specialized task and disclose the associated cost breakdown figures in the District estimate, but only to the extent deemed necessary to arrive at a fair and reasonable price. The overall amount of the District's estimate shall not be disclosed.

SOURCE: Final Rulemaking published at 35 DCR 1591 (February 26, 1988).

2627 NEGOTIATIONS OF ARCHITECT-ENGINEER CONTRACTS

- 2627.1 Based upon the report submitted by the evaluation board, the contracting officer shall begin negotiations in accordance with this chapter.
- 2627.2 The contracting officer (or designee) shall first attempt to negotiate a contract with the highest rated qualified firm for the required services at a price which the contracting officer determines in writing to be fair and reasonable to the District.
- 2627.3 The contracting officer shall inform the firm that no construction contract may be awarded to the firm that designed the project, excepted as provided in §2607.2.
- 2627.4 The contracting officer shall ensure that the firm has a clear understanding of the scope of work, specifically, the essential requirements involved in providing the required services, and shall determine whether the firm will make available the necessary personnel and facilities to perform the services within the required time.
- 2627.5 During negotiations, the contracting officer shall seek advance agreement in accordance with chapter 33 of this title on any charges for computer-assisted design.
- 2627.6 The contracting officer shall limit the firm's subcontracting to firms agreed upon during negotiations or through a formal contract modification.
- 2627.7 If a mutually satisfactory contract cannot be negotiated, the contracting officer shall notify the firm that negotiations are terminated. The contracting officer shall then

initiate negotiations with the next rated qualified firm on the list. This procedure shall be continued until a mutually satisfactory contract has been negotiated.

- 2627.8 If the contracting officer is unable to negotiate a satisfactory contract with any of the selected firms, he or she shall request a listing of additional firms from the evaluation board and continue negotiations in accordance with this section until an agreement is reached.

SOURCE: Final Rulemaking published at 35 DCR 1591 (February 26, 1988).

2628 RELEASE OF INFORMATION

- 2628.1 After final selection has taken place under §2623, the contracting officer may release information identifying the highest rated architect-engineer firm with which a contract will be negotiated.

- 2628.2 If negotiations are terminated without awarding a contract to the highest rated firm, the contracting officer may release that information and state that negotiations will be undertaken with another named architect-engineer firm.

- 2628.3 When an award has been made, the contracting officer shall publicize the award in accordance with the provisions of chapter 13 of this title.

SOURCE: Final Rulemaking published at 35 DCR 1592 (February 26, 1988).

§2629: RESERVED

2630 LIABILITY FOR DESIGN ERRORS OR DEFICIENCIES

- 2630.1 The firm shall be responsible for the professional quality, technical accuracy, and coordination of all services required under its contract. The firm shall be liable for costs to the District resulting from errors or deficiencies in designs furnished under its contract.
- 2630.2 When modification of a construction contract is required because of an error or deficiency in the services provided under an architect-engineer contract, the contracting officer shall consider the extent to which the architect-engineer contractor may be liable.
- 2630.3 If the contracting officer determines that the firm is liable, and the recoverable cost will exceed the administrative cost involved or collection is otherwise in the best interests of the District, the contracting officer shall initiate procedures to collect the amount due.

- 2630.4 The contracting officer shall include in the contract file a written statement of the reasons for the decision whether to recover costs from the firm.

SOURCE: Final Rulemaking published at 35 DCR 1592 (February 26, 1988).

2631 DESIGN WITHIN FUNDING LIMITATIONS

- 2631.1 The District may require the architect-engineer contractor to design the project so that construction costs will not exceed a contractually specified dollar limit. The amount of the construction funding limitation shall be established during negotiations between the firm and the contracting officer.
- 2631.2 In negotiating the funding limitation amount, the contracting officer shall make available to the firm the information upon which the District has based its initial construction estimate and subsequently acquired information that may affect the construction costs.
- 2631.3 If the price of construction proposed in response to a District solicitation exceeds the construction specified dollar funding limit in the architect-engineer contract, the firm shall be solely responsible for redesigning the project within the funding limitation.
- 2631.4 Any redesign services required by §2631.3 shall be performed at no increase in the price of the architect-engineer contract. However, if the cost of proposed construction is affected by events beyond the firm's reasonable control (such as an increase in material cost which could not have been anticipated or an undue delay by the District in issuing a construction solicitation), the District may be obligated for any additional costs.
- 2631.5 If an architect-engineer firm's design fails to meet the contractual limitation on construction cost and the District determines that the firm should not redesign the project, the contracting officer shall place a written statement of the reasons for that determination in the contract file.

SOURCE: Final Rulemaking published at 35 DCR 1593 (February 26, 1988).

2632 REDESIGN RESPONSIBILITY FOR DESIGN ERRORS OR DEFICIENCIES

- 2632.1 The architect-engineer firm shall make necessary corrections at no cost to the District if the designs, drawings, specifications, or other items or services furnished by the firm contain any errors, deficiencies, or inadequacies.
- 2632.2 If the contracting officer does not require a firm to correct errors, the contracting officer shall include a written statement of the reasons for that decision in the contract file.

SOURCE: Final Rulemaking published at 35 DCR 1594 (February 26, 1988).

2633 ARCHITECT-ENGINEER PERFORMANCE EVALUATION

- 2633.1 The contract administrator shall prepare a performance evaluation report for contracts of more than ten thousand dollars (\$10,000) and may prepare a report for contracts of ten thousand dollars (\$10,000) or less.

- 2633.2 The contract administrator shall prepare a performance report after final acceptance of the work or after contract termination, as appropriate.
- 2633.3 If the contract administrator concludes that a firm's overall performance is unsatisfactory, the contracting officer shall advise the firm in writing that a report of unsatisfactory performance is being prepared and shall state the basis for the report.
- 2633.4 If, after receiving the contract administrator's report, the firm responds with any written comments, the contract administrator shall include them in the report, and consider them in resolving any alleged factual discrepancies, and make any appropriate changes in the report.
- 2633.5 The contracting officer shall review each performance report for accuracy and reasonableness.
- 2633.6 The contracting officer shall include the performance evaluation report in the contract file, and shall send a copy to the office responsible for maintenance of the firm's qualifications data. The office shall retain the report for at least six (6) years after the date of the report.

SOURCE: Final Rulemaking published at 35 DCR 1594 (February 26, 1988).

2699 DEFINITIONS

- 2699.1 When used in this chapter, the following words and terms shall have the meanings ascribed:

Affiliate - an individual or firm that controls, is controlled by, or is under common control with another individual or firm.

Award information - information regarding the name of the contractor and the amount of the contract award.

Contract administrator - the individual or individuals, other than the contracting officer, responsible for overseeing the progress of a contract after it is awarded. The contract administrator does not give instructions to the contractor that will alter terms, conditions, or costs of the contract.

Design competition - that part of the architect-engineer solicitation which relates to the requirement for a conceptual design only.

Firm - any individual, partnership, corporation, association, or other legal entity permitted by law to practice the professions of architecture or engineering.

Notice of intent to award - a written notice to the apparent awardee advising of intent to award the contract contingent upon the execution of required bonds and the formal contract, and the obtaining of all necessary approvals.

Plans and specifications - drawings, text, and other descriptions of the physical or functional characteristics required for and preliminary to the construction.

SOURCE: Final Rulemaking published at 35 DCR 1594 (February 26, 1988).